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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,554	01/27/2004	Tomoyuki Suzuki	1341.1174	9591
21171	7590	11/22/2006	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			ELAMIN, ABDELMONIEM I	
			ART UNIT	PAPER NUMBER
			2116	

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/764,554	SUZUKI, TOMOYUKI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Abdelmoniem Elamin	2116	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 05 September 2006.  
 2a) This action is FINAL.                                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-16 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,2 and 4-16 is/are rejected.  
 7) Claim(s) 3 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 4-16 are rejected under 35 U.S.C. 1.02(e) as being anticipated by Dougulis et al, Pub. No. US 2005/0108075 A1.
3. Claims 1, 9, 11-16, Dougulis teaches a performance controller [*power aware monitor 310 of Fig. 3*] comprising:

a performance scheduler [*performance profiles 312 of Fig. 3*] that creates a performance schedule [*build profiles of resource consumption, see abstract*] showing a plurality of performance levels of an electronic device [*paragraph 0053, lines 13-18*], based on a charge level of a battery used in the electronic device [*paragraph 0035, lines 4-7*] and a table of times at which application programs are executed in the electronic device [*paragraph 0053, lines 14-17*]; and

a mode controller that sets operation modes of components of the electronic device based on the performance schedule [*paragraph 0050*].

4. Claims 2, 10, Dougulis teaches the performance scheduler further creates a charge level schedule showing change in the charge level [*predictions of battery of remaining battery lifetime*,

*see paragraph 35, lines 5-6]; and the mode controller sets the operation modes based on a comparison of an actual charge level of the battery with the charge level schedule [*the power aware monitor influences a policy decision based on the battery state and predictions of battery of remaining battery lifetime, see paragraph 35, lines 4--7*].*

5. Claim 4, Dougulis teaches the table is an application schedule showing application programs that are registered in a timetable, and the timetable is recorded in the electronic device by a user of the electronic device [*paragraph 67, lines 16-19, see also paragraph 50*].

6. Claim 5, Dougulis teaches the application programs are classified into a plurality of categories based on load required for executing the application programs [*permitted applications, banned applications, see paragraphs 0056, 0057*], and the performance scheduler determines the application schedule by estimating the application program's from names of the categories that are registered in the timetable [*paragraphs 0055, 0056*].

7. Claim 6, Dougulis teaches 6 the performance scheduler estimates power consumption of the electronic device based on the table, and notifies a warning to a user of the electronic device when the power consumption is larger than an actual charge level of the battery [*Fig. 4B, see also paragraph 0053*].

8. Claim 7, Dougulis teaches the mode controller notifies a warning to a user of the electronic device when an application program that requires load higher than the application programs recorded in the table is executed [*Fig. 4B, see also paragraph 0053*].

9. Claim 8, Dougulis teaches the mode controller changes the performance schedule so that power consumption of the electronic device decreases, when the actual charge level is less than a corresponding charge level in the charge level schedule [*paragraph 0053*].

*Allowable Subject Matter*

10. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

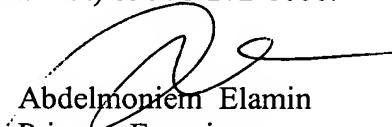
11. Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdelmoniem Elamin whose telephone number is 571-2727-3674. The examiner can normally be reached on MON - THUR 10:00 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rehana Prrveen can be reached on 571-272-3676. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Abdelmoniem Elamin  
Primary Examiner  
Art Unit 2116

November 16, 2006